IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRET LEVY, d/b/a BENNY THE BUM'S, INC.,

Plaintiff,

CIVIL ACTION

TRENT MOTEL ASSOCIATES, LP; STADIUM HOTEL RESTAURANT

v.

NO. 11-776

GROUP, INC.; BARRY SUSSMAN; MAHAVIR CHUDASAMA: FRED PANITZ; RAJ PARIKH, d/b/a PARIKH **ASSOCIATES; HOWARD KAUFMAN;** WILLIAM F. GREEN; and HOLIDAY HOSPITALITY FRANCHISING, INC.,

Defendants.

ORDER

AND NOW, this 25th day of August 2011, upon consideration of the Motion of Defendants Trent Motel Associates, L.P., Stadium Hotel Restaurant Group, Inc., Barry Sussman, Mahavir Chudasama, Fred Panitz, Raj Parikh d/b/a Parikh Associates Hotel Investment & Development Co., Howard Kaufman and William F. Green to Dismiss Plaintiff's Amended Complaint Pursuant to Fed. R. Civ. Proc. 12(b)(6) (Document No. 22, filed July 11, 2011), Plaintiff's Response in Opposition to the Defendants' Motion to Dismiss Amended Complaint Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure (Document Nos. 23, 24, filed August 1, 2011), and Defendants' Reply Brief in Further Support of Their Motion to Dismiss Plaintiff's Amended Complaint Pursuant to Fed. R. Civ. Proc. 12(b)(6) (Document No. 25, filed August 10, 2011), for the reasons set forth in the Memorandum dated August 25, 2011, IT IS

ORDERED that the Motion of Defendants Trent Motel Associates, L.P., Stadium Hotel Restaurant Group, Inc., Barry Sussman, Mahavir Chudasama, Fred Panitz, Raj Parikh d/b/a Parikh Associates Hotel Investment & Development Co., Howard Kaufman and William F. Green to Dismiss Plaintiff's Amended Complaint Pursuant to Fed. R. Civ. Proc. 12(b)(6) (Document No. 22, filed July 11, 2011) is GRANTED IN PART AND DENIED IN PART, as follows:

- 1. Those parts of the defendants' motion which seek dismissal of Count III of the Amended Complaint and plaintiff's claims in Count IV of the Amended Complaint for violations of 43 Pa. Stat. §§ 955(a) and (i)(1) are **GRANTED** and those claims are **DISMISSED WITH PREJUDICE**, and
 - 2. The defendants' motion is **DENIED** in all other respects.

IT IS FURTHER ORDERED THAT a preliminary pretrial conference will be scheduled in due course.

BY THE COURT:

/s/ Hon. Jan E. DuBois

JAN E. DUBOIS, J.